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COMMISSION ON THE LIMITS OF THE CONTINENTAL SHELF

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STATEMENT BY THE CHAIRMAN OF THE COMMISSION ON THE LIMITS OF THE CONTINENTAL SHELF ON THE PROGRESS OF WORK IN THE COMMISSION

1. The fourth session of the Commission on the Limits of the Continental Shelf was held at United Nations Headquarters, New York, from 31 August to 4 September 1998. The Commission held a total of 10 meetings.

2. The following 19 members of the Commission attended the session: Mr. Alexandre Tagore Medeiros de Albuquerque, Mr. Osvaldo Pedro Astiz, Mr. Lawrence Folajimi Awosika, Mr. Samuel Sona Betah, Mr. Harald Brekke, Mr. Galo Carrera Hurtado, Mr. André Chan Chim Yuk, Mr. Peter F. Croker, Mr. Noel Newton St. Claver Francis, Mr. Kazuchika Hamuro, Mr. Karl H. F. Hinz, Mr. A. Bakar Jaafar, Mr. Mladen Juračić, Mr. Yuri Borisovitch Kazmin, Mr. Iain C. Lamont, Mr. Wenzheng Lu, Mr. Chisengu Leo Mdala, Mr. Yong Ahn Park and Mr. Daniel Rio. Two members of the Commission, Mr. Ali Ibrahim Beltagy and Mr. Krishna-Swami Ramachandran Srinivasan, were unable to attend the session.

3. The Commission had before it the following documents: provisional agenda (CLCS/L.5) which, after it was adopted with an amendment, was reissued as approved (CLCS/8); letter from the Chairman of the Commission on the Limits of the Continental Shelf to the President of the eighth Meeting of States Parties to the United Nations Convention on the Law of the Sea (SPLOS/28); Report of the eighth Meeting of States Parties (SPLOS/31); Draft Scientific and Technical Guidelines of the Commission on the Limits of the Continental Shelf (CLCS/CRP.12), other conference room papers containing revised chapters of the Draft Scientific and Technical Guidelines (CLCS/CRP.12/Rev.1 and Add.1-6), as well as other proposals on scientific and technical guidelines submitted by the members of the Commission to assist coastal States in the preparation of the submissions regarding the outer limits of their continental shelves.

4. The meeting was opened by the Chairman, Mr. Yuri B. Kazmin. In his opening statement, the Chairman outlined the programme of work for the fourth session of the Commission. In this connection, he proposed to amend the agenda of the session to include the item "Report of the Chairman of the Commission on the

consideration of the issues submitted to the Meeting of States Parties at its eighth meeting". The agenda was adopted as amended.

5. Pursuant to that agenda item, the Chairman reported to the members of the Commission on the results of the deliberations which took place during the eighth Meeting of States Parties to the United Nations Convention on the Law of the Sea on the issues which he had included in a letter addressed to the President of that Meeting (SPLOS/31, paras. 41-56).

6. He noted that in regard to the issues contained in annexes I and II of the Rules of Procedure of the Commission (CLCS/3/Rev.1), it had been pointed out that the Rules of Procedure should be drafted in a neutral manner and should be limited to specifying what the Commission could or could not do. They should not appear to create new rights and obligations for States different from those defined in the Convention. Consequently, at the current session, the Chairman suggested that the Commission should consider making editorial changes in order to make it clear that the rules dealt only with the procedures to be followed by the Commission in discharging its functions.

7. The Chairman further informed the Commission that no other substantive comments had been provided orally or in writing during the discussion at the eighth Meeting of States Parties to the Convention. However, delegations were requested to forward any comments they might have on those issues in writing before the Commission's session in August/September to enable the Commission to consider them. A number of comments were received and circulated to the members of the Commission for consideration. The Chairman also reported on his recent meeting with the chairman of the group of wide-margin States in Kingston, Jamaica, and on the results of informal consultations held by the group. Although written comments were expected from the group, none were submitted.

8. Regarding the issue of confidentiality, the Chairman noted that the eighth Meeting of States Parties had taken note of the opinion by the Legal Counsel entitled "Legal opinion on the applicability of the Convention on the Privileges and Immunities of the United Nations to the members of the Commission" (CLCS/5). In this respect, the issue of the liability of the members of the Commission, in the event of an accusation by a submitting State that a breach of confidentiality had taken place, had been effectively and satisfactorily addressed.

9. Regarding the interpretation of certain terms used in the Convention, namely whether the terms "coastal States" and "States" included States that were not parties to the Convention, the Chairman conveyed to the members of the Commission the opinion shared by many delegations that had been expressed during the Meeting of States Parties. It was felt that the Meeting did not have the competence to provide such a legal interpretation and that the Commission should request the Legal Counsel for an advisory opinion only if the actual need arose.

10. Regarding the assistance in financing the participation of the members of the Commission from developing countries in the work of the Commission, the Chairman said that the Secretariat had been requested to explore possible means of allowing all members to participate in the Commission, particularly the modalities for a trust fund, on the understanding that the Convention clearly

stipulated that States parties should defray the costs of the members they nominated.

11. The Commission then resumed its work on the Scientific and Technical Guidelines of the Commission. The Editorial Committee established at the third session (CLCS/7, para. 10) then resumed its work under the chairmanship of Mr. Galo Carrera. The Scientific and Technical Guidelines were aimed at assisting coastal States in preparing their submissions regarding the outer limits of their continental shelves.

12. As agreed at the third session of the Commission, its members submitted a number of comments on the draft document (CLCS/CRP.12) during the inter-sessional period to the Chairmen of the respective working groups set up during the third session (CLCS/7, paras. 10 and 13). Subsequently, by the end of July, the Chairmen submitted comments on respective chapters to Mr. Carrera, who in turn prepared a revised draft for consideration by the Commission.

13. The reports of the drafting groups, based on the version edited by Mr. Carrera, as well as the drafts submitted to him by the chairmen of the working groups, were considered by the Committee in the following order:

(1) Introduction (CLCS/CRP.12/Rev.1), Mr. Carrera;

(2) Entitlement to and delineation of the outer limits of the continental shelf (CLCS/CRP.12/Rev.1), Mr. Carrera, Chairman;

(3) Outer limits based on metrics and the outer limits of the continental shelf (CLCS/CRP.12/Rev.1), Mr. Carrera, Chairman;

(4) The 2,500-metre isobath (CLCS/CRP.12/Rev.1/Add.5, Mr. Lamont, Chairman;

(5) Foot of the continental slope determined as the point of maximum change in the gradient at its base (CLCS/CRP.12/Rev.1/Add.6), Mr. Rio, Chairman;

(6) Foot of the continental slope determined by means of evidence to the contrary (CLCS/CRP.12/Rev.1/Add.1), Mr. Hinz, Chairman;

(7) Ridges (CLCS/CRP.12/Rev.1/Add.2), Mr. Hamuro, Chairman;

(8) Delineation of outer limits based on sediment thickness (CLCS/CRP.12/Rev.1/Add.3), Mr. Brekke, Chairman;

(9) Information on the limits of the extended continental shelf (CLCS/CRP.12/Rev.1/Add.4), Mr. Albuquerque, Chairman;

(10) References and bibliography (CLCS/CRP.12/Rev.1/Add.6), Mr. Carrera.

14. A number of comments and amendments were submitted by the members with a view to producing a balanced and generally acceptable draft text as well as achieving compromise solutions on several outstanding issues.

15. The Oversight Group, with Mr. Awosika as Chairman (CLCS/7, para. 12), also continued its work with a view to ensuring that all issues raised in the 1993 and 1995 meetings of the Groups of Experts[1] were addressed in the guidelines.

16. As a result of the deliberations, the Editorial Committee produced a new revised draft document and submitted it to the Commission, which decided to adopt provisionally the Scientific and Technical Guidelines (to be issued as CLCS/L.6). It was also agreed that, pending formal adoption at the next session, the Guidelines could be provisionally applied. Those parts of the text on which consensus had yet to be reached would be indicated by square brackets and members could propose further draft amendments on the text as a whole. It was also agreed that illustrations contained in annex II and relating to several chapters of the Scientific and Technical Guidelines would be finalized by the appropriate working group (under the chairmanship of Mr. Jaafar) at the next session and therefore would not be included in the provisionally adopted text.

17. In accordance with the understanding reached during the eighth Meeting of States Parties (see para. 6 above), the Commission then considered editorial changes to be included in annex I to the Rules of Procedure in order to make it clear that the rules dealt only with the procedures of the Commission and not with the rights of States. Draft editorial changes proposed by the Chairman were approved.

18. The Commission also considered comments and proposed amendments to annex I to the Rules of Procedure communicated to the Chairman by India, Mexico, the Republic of Korea and the United States of America. The Commission concluded that issues raised in those communications had already been extensively addressed prior to the provisional adoption of annex I. Since they did not enjoy consensus support, the Commission did not reopen the discussion of annex I on the basis of those comments and amendments.

19. The Commission further considered annex II to the Rules of Procedure. It decided to reconvene the open-ended working group established at its second session to deal with the question of confidentiality (CLCS/4, para.7). The group held two meetings at which it considered, inter alia, comments on rule 5, paragraph 2, of annex II to the Rules of Procedure, communicated to the Chairman by Germany, as well as suggested draft amendments by the United States. Following a discussion of those proposals, the group agreed to incorporate several amendments in annex II and to add a new rule 7 on the return of confidential data to the coastal State.

20. The Commission approved the draft amendments agreed upon in the open-ended working group. The Rules of Procedure were thus finally and formally adopted. The Commission also decided to follow the group's recommendation and to seek the legal opinion of the Legal Counsel as to which procedure would be the most appropriate in cases where it might be necessary to institute proceedings following an alleged breach of confidentiality.

21. Regarding interpretation of the terms "States" and "coastal States", the Commission took note of the recommendation by the Meeting of States Parties and decided to request a legal opinion only if the actual need arose.

22. With respect to the creation of a trust fund to assist in financing participation of members of the Commission from developing countries, the Commission requested its Chairman to submit a letter to the Meeting of States Parties with a view to seeking a decision in the matter. The members also indicated their expectation that the issue would be raised at the fifty-fourth session of the General Assembly.

23. Regarding the duration and timing of future sessions, the commission decided that two sessions would be held in 1999: the fifth session would be held for two weeks, from 3 to 14 May 1999 with a view, inter alia, to adopting the final text of the Scientific and Technical Guidelines. The sixth session was scheduled to be held from 30 August to 3 September 1999. It was also decided that if no submission from a State was received, the Commission would revisit the question of the duration of next year's sessions in the light of the actual workload.

24. The Commission conveyed its appreciation to the staff of the Division for Ocean Affairs and the Law of the Sea for the efficient preparation of the documents of the commission and for their assistance during the session. It also expressed its appreciation to other staff, including the interpreters, who despite the difficulties posed by complex scientific and technical terminology, had made it possible for the members of the Commission to communicate with one another.

Notes

See The Law of the Sea: Definition of the Continental Shelf (United Nations publication, Sales No. E.93.V.16); and "Commission on the Limits of the Continental Shelf: its functions and scientific and technical needs in assessing the submission of a coastal State" (SPLOS/CLCS/INF/1).